



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 3 November 2015

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: NC33

COMMITTEE OF THE WHOLE HOUSE

CITIES AND LOCAL GOVERNMENT DEVOLUTION BILL [LORDS]

NOTE

This document includes all remaining amendments and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the House [14 October 2015].

CLAUSES 20 AND 21; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF CLAUSES 20 AND 21;

Mr Graham Allen

NC3

To move the following Clause—

“Governance arrangements of local authorities in England: election of councillors

- (1) Section 36 of the Representation of the People Act 1983 (local elections in England and Wales) is amended as follows.

Cities and Local Government Devolution Bill [*Lords*], *continued*

(2) After subsection (1) insert—

“(1A) Rules made by the Secretary of State under subsection (1) must ensure that each poll at an election shall be conducted in accordance with an electoral system to be decided by that local authority.”

Member’s explanatory statement

This amendment transfers to local people the power to decide their own electoral system for local elections.

Mr Andrew Turner

NC9

To move the following Clause—

“Separation of local authorities: local referendums

- (1) The Secretary of State shall by regulations make provision about the circumstances in which a constituent part of a local authority can separate from the local authority of which it is currently a part and become established as a new local authority in its own right.
 - (2) Such regulations must provide that a constituent part of a local authority can secede from an existing local authority only if a majority of local government electors in that constituent part who take part in a vote on the proposal are in favour of the proposal.
 - (3) Such regulations must cover—
 - (a) The information that the proposed new local authority shall provide ahead of such a referendum being conducted, such which may include but shall not be limited to—
 - (i) information on geographic extent of the new local authority, and
 - (ii) information on the governance arrangements for the new local authority.
 - (b) The basis on which a transfer of resources from an existing local authority to a new local authority shall be calculated.
 - (4) Regulations made by the Secretary of State may make similar provision for a constituent part of a local authority to separate from the local authority of which it is currently a part in order to join a neighbouring local authority.”
-

Cities and Local Government Devolution Bill [*Lords*], continued

*REMAINING NEW CLAUSES; REMAINING NEW SCHEDULES; CLAUSE 22; SCHEDULE 4;
CLAUSES 23 TO 25; REMAINING PROCEEDINGS ON THE BILL*

Mr Graham Allen

NC19

To move the following Clause—

“Constitutional Convention

A convention is to be held to consider and make recommendations on the constitution of the United Kingdom, commencing its operation no later than 31 December 2016.”

Member’s explanatory statement

This new clause would establish a national public discussion on the renewal of the UK democracy.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC24

To move the following Clause—

“National framework for devolution of fiscal powers

Within twelve months of the passing of this Act, the Secretary of State must publish a framework for further devolution of fiscal powers, including but not limited to, setting and revaluating local tax rates, banding and discounts.”

Member’s explanatory statement

This new Clause would require the Secretary of State to set out a framework for further devolution of fiscal powers.

Mr Graham Allen

NC27

To move the following Clause—

“Devolution of tax revenues

- (1) From the beginning of the 2016–17 tax year, the main UK rates of income tax are reduced by 10 pence in the pound for those identified as English taxpayers.
- (2) The Department of Communities and Local Government must set a new substitute 10 pence English rate of income tax to be added to the reduced UK rates.
- (3) The English block grant must be adjusted to reflect the change in funding streams arising from subsections (1) and (2).

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (4) From the beginning of the 2016–17 tax year, the revenue from taxes on land transactions in England and on landfill in England shall be assigned to the Department of Communities and Local Government.”

Member’s explanatory statement

This new Clause would bring England into line with Scotland and devolve to England the income tax and other financial powers already devolved to Scotland in the Scotland Act 2012, so that English local government and the Department of Communities and Local Government can become the vehicle to deliver financial devolution in England.

Mr Graham Allen

NC28

To move the following Clause—

“Devolution of fiscal powers

English councils have the same powers from April 2016 as Scottish Ministers in the Scotland Act 2012—

- (a) to borrow from the National Loans Fund, commercial banks and local council bond issues, to deal with deviations between forecast and actual revenues, in year shortfalls and agreed capital investment, and
- (b) to devolve other existing taxes and to create with the consent of local electorates new locally specific taxes.”

Member’s explanatory statement

This new Clause would bring England into line with Scotland and devolve to England the borrowing powers already devolved to Scotland in the Scotland Act 2012, so that English local government and the Department of Communities and Local Government can become the vehicle to deliver financial devolution in England.

Mr Graham Allen

NC29

To move the following Clause—

“The Local Government Independence Code

- (1) There shall be a Code, to be known as “the Local Government Independence Code”, the principal purpose of which shall be to define and regulate the relationship between central and local government.
- (2) A court or tribunal determining a question which has arisen in connection with the functions of a local authority, or of the Secretary of State or other public authority in relation to any local authority, must take into account the provisions of the Code.
- (3) Schedule (The Local Government Independence Code) which—
 - (a) sets out the terms of the Code,
 - (b) makes provision about the application of the Code, and requires public authorities, including central and local government, to comply with the Code,
 - (c) makes provision for amending the Code,

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (d) requires that, where it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which ensures compliance with the Code, and makes provision for the amending of legislation where it is found not to be compatible with the Code,
 - (e) makes provision about remedial orders to amend legislation,
 - (f) makes provision for Ministers to make, or refuse to make, a statement that a Bill is compatible with the Code,
 - (g) amends the Parliament Act 1911 so as to exclude any Bill seeking to amend this Act from the provisions of the Parliament Act 1911,
 - (h) provides for amendments which are consequential on the making of the Code to certain enactments relating to local authorities, and
 - (i) requires the Secretary of State to provide for the review of provisions in pre-commencement legislation to assess their compatibility with the provisions of the Code,
- has effect.”

Member’s explanatory statement

The intention of this new Clause is to define the independence of local government and to regulate the relationship between local and central government in England by means of a statutory Code.

John Stevenson

NC30

To move the following Clause—

“Reduction in petition threshold

- (1) The Local Government Act 2000 is amended as follows.
- (2) In section 34(4) (minimum number of local government electors for a local authority’s area who must support any petition presented to the authority), for “5 per cent” substitute “1 per cent”.”

Member’s explanatory statement

This amendment would reduce the minimum number of local government electors for a local authority’s area who must support any petition presented to the authority from 5 per cent to 1 per cent.

Cities and Local Government Devolution Bill [*Lords*], *continued*

Mr David Burrowes
Dr Sarah Wollaston

NC31

To move the following Clause—

“Mayors of combined authorities: Further functions

- (1) After section 107E of the Local Democracy, Economic Development and Construction Act 2009 (inserted by section 6 above) insert—

“107F Functions of mayors: alcohol pricing

- (1) The Secretary of State may by order make provision for a mayor of a mayoral combined authority to have the power to set a minimum unit price for alcohol that is sold within that combined authority area.
- (2) An order made under subsection (1) above must include a provision that such a power may be exercised by a mayor only following a consultation which includes local residents on the proposed level of the minimum unit price for alcohol.””

Mr David Burrowes
Caroline Ansell
Fiona Bruce

NC32

To move the following Clause—

“Devolution to combined authorities: the family test

- (1) As soon as practicable after 31 March each year a mayoral combined authority in England shall produce and publish a report setting out its performance in applying the family test headings set out in subsection (3) over the most recent year to 31 March.
- (2) In applying the family test, the mayoral combined authority must consider the impact of its policies and performance under each of the family test headings set out in subsection (3) and consider any guidance issued by the Secretary of State.
- (3) The family test headings are—
- (a) family formation;
 - (b) families going through key transitions such as becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition;
 - (c) all family members’ ability to play a full role in family life, including with respect to parenting and other caring responsibilities;
 - (d) families before, during and after couple separation; and
 - (e) those families most at risk of deterioration of relationship quality and breakdown.
- (4) An overview and scrutiny committee of the mayoral combined authority shall review the report within four months of its publication.
- (5) The Secretary of State may issue guidance to mayoral combined authorities on applying the family test and on reporting on the test.”

Member’s explanatory statement

This new Clause would require mayoral combined authorities in England to report annually on

Cities and Local Government Devolution Bill [*Lords*], *continued*

their performance in relation to the DWP's Family Test (October 2014) and for an overview and scrutiny committee to examine the contents of the report.

Graham Allen

NC33

★ To move the following Clause—

“Parish Councils: Power of parish council to sell electricity

In Section 44 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 insert “11” between “1” and “16”.”

Member's explanatory statement

This amendment will allow parish councils to be able to sell electricity that it generates.

Mr Graham Allen

NS2

To move the following Schedule—

“SCHEDULE

THE LOCAL GOVERNMENT INDEPENDENCE CODE

- 1 Chapter 4ZA and Chapter 4A of Part 1 of the Local Government Finance Act 1992 are repealed.
- 2 (1) This Code—
 - (a) defines the relationship between central government and local authorities; and
 - (b) makes provision about the financial independence and conduct of local authorities.
- (2) For the avoidance of doubt, nothing in this Code shall affect the rights of individuals; and individuals may continue to seek judicial review of any action by a public authority which they regard as unjust or as infringing their rights.

Local Autonomy and Local Self-Government

- 3 (1) Local authorities' accountability is to their electorates.
- (2) Local authorities are autonomous, democratically-elected bodies which independently decide upon, administer and regulate public affairs and deal with all matters of concern within their boundaries to the extent that such matters are not the statutory responsibility of another body.
- (3) Local authorities shall continue to operate within the rule of law.
- (4) Local authorities shall continue to operate with full legal personality and under a general power of competence. Subject to sub-paragraph (4), local authorities may pass measures on matters affecting the affairs and interests of their area.

Cities and Local Government Devolution Bill [*Lords*], *continued**Scope of Local Government*

- 4
- (1) The powers and responsibilities of local authorities will continue to be prescribed by statute.
 - (2) Local authorities shall have power to exercise their initiative with regard to any matter which is not statutorily excluded from their competence or assigned to another body.
 - (3) Central government may not propose actions which are intended to, or may reasonably be regarded as being likely to, infringe the independence of local government, as defined in this Code, or affect local government generally or any local authority, unless local government generally, or the local authority concerned, consents.

Inter-Governmental Activities

- 5
- Central government and local authorities shall establish joint inspection regimes to set and monitor the standards of services supplied or secured by them.

Territorial Autonomy

- 6
- The geographical boundary of a local authority can be altered only by a proposal from the local authority itself or from its electorate. Local authorities must make arrangements for their electorates to put forward such proposals for consideration. Any such locally-inspired proposal for boundary changes, whether initiated directly by the authority or by the electorate of the authority, must be developed with the involvement of the Local Government Boundary Commission for England and shall be subject to approval of the electorate of the area concerned, under arrangements made by the local authority concerned and approved by the Electoral Commission.

Council Governmental Systems

- 7
- (1) The electorate of each local authority, through methods agreed by the local authority concerned, shall have the power to choose that authority's internal political decision-making systems. The systems concerned shall include a directly elected mayor and cabinet, a cabinet and leader, a committee system, or any other political decision-making arrangement which the electorate may decide is appropriate.
 - (2) The electorate of each local authority, through methods agreed by their local authorities, may, after a process of consultation carried out by the local authority concerned, agree to and adopt any electoral system for use in elections to that authority.

Local Government Financial Integrity

- 8
- (1) Local authorities shall be financially independent of central government, save as otherwise provided for in this Code.
 - (2) Central government may not place any restriction on decisions by local authorities about the exercise of their financial powers.
 - (3) The distribution of central government funds between local authorities shall continue on the basis of existing equalisation arrangements. Distribution will continue to be based on the principle of ensuring fairness and balance between local authorities. The basis on which this distribution is carried out must continue to be made public.
 - (4) Each local authority shall receive from central government a guaranteed share of the annual yield of income tax, as follows. Central government must in each

Cities and Local Government Devolution Bill [*Lords*], *continued*

financial year assign to the Secretary of State responsible for the distribution of central government funds between local authorities an amount of money equivalent to the yield from ten pence in the pound of income tax. The Secretary of State must make arrangements to inform each taxpayer in England of the amount of their income tax which makes up the central government funding distributed to English local authorities as a whole.

- (5) The amount of the income tax yield referred to in paragraph 8(4) shall be re-negotiated between central and local government whenever service provision responsibilities are transferred between central government and local authorities.
- (6) Local authorities may raise additional sources of income in their areas in any way they wish, and with the consent of their electorates as expressed through arrangements to be determined and put in place by the local authority concerned.
- (7) Local authorities shall be able to raise any loans, bonds or other financial instruments which their credit rating allows and as independent entities will be exclusively responsible for their repayment. All local authorities shall operate “a balanced budget” so that in any one financial year all outgoings, including interest repayments on borrowings, shall not exceed income.
- (8) Central government may not cap, or in any other way limit, local authorities’ taxation powers.
- (9) The financial transparency standards that apply to central government shall apply to local authorities.
- (10) Central government and local authorities may contract with each other in order to pursue their own policy objectives.

Local Authorities’ right to co-operate and associate

- 9 (1) Local authorities are entitled, in pursuit of any undertaking, to co-operate in any way with any other persons, including local authorities, public and private bodies, voluntary, charity or third-sector organisations, and financial, commercial or private enterprises.
- (2) Where more than one local authority is responsible for services in a geographic area, those local authorities shall co-operate so as to maximise the well-being of those living or working in that area.
- (3) Local authorities may join any association for the protection and promotion of their common interests and may belong to an international association of any sort.

Decision-making

- 10 The administration of any local referendum or other vote on proposals put forward by the electorate of any local authority, or other local decision-making processes involving a public vote, shall adhere to standards set by the Electoral Commission; and those responsible for the conduct of any such decision-making processes shall be accountable to the Electoral Commission for their performance against those standards.

Legal Protection of Local Government

- 11 Local authorities may seek a judicial remedy in order to secure the free exercise of their powers, and any other principles of local self-government or individual rights contained within this Code or otherwise enshrined in law.

Cities and Local Government Devolution Bill [*Lords*], *continued*
Application of and Compliance with the Code: acts of public authorities

- 12 It is unlawful for a public authority to act in a way which is not in compliance with the Code.
- 13 Paragraph 12 does not apply to an act of a local authority if—
- (a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
 - (b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Code, the authority was acting so as to give effect to or enforce those provisions.
- 14 In this Schedule “public authority” includes central government, local authorities and any other person certain of whose functions are functions of a public nature, but does not include either House of Parliament or persons exercising functions in connection with proceedings in Parliament; and “an act” includes a failure to act.

Proceedings

- 15 (1) A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by paragraph 12 may—
- (a) bring proceedings against the authority under this Act in the appropriate court or tribunal, or
 - (b) rely on the Code in any legal proceedings.
- (2) In sub-paragraph (1)(a) “appropriate court or tribunal” means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding.
- (3) If the proceedings are brought on an application for judicial review, the applicant must have a sufficient interest in relation to the act.
- (4) Proceedings under sub-paragraph (1)(a) must be brought before the end of—
- (a) the period of one year beginning with the date on which the act complained of took place; or
 - (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances, but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.
- (5) In sub-paragraph (1)(b) “legal proceedings” includes—
- (a) proceedings brought by or at the instigation of a public authority; and
 - (b) an appeal against the decision of a court or tribunal.
- (6) Nothing in this Act creates a criminal offence.
- (7) In this paragraph “person” includes a local authority.

Judicial remedies

- 16 (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.
- (2) But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.
- (3) No award of damages is to be made unless, taking account of all the circumstances of the case, including—
- (a) any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (b) the consequences of any decision (of that or any other court) in respect of that act, the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.
- (4) In this paragraph—
 - “court” includes a tribunal;
 - “damages” means damages for an unlawful act of a public authority; and
 - “unlawful” means unlawful under paragraph 15.

Amendment of the Code

- 17 (1) The Secretary of State may by order make such amendments to the Code as the Secretary of State considers appropriate.
- (2) Before making an order under sub-paragraph (1), the Secretary of State must consult—
 - (a) such local authorities,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (3) Any orders for amendments made by the Secretary of State are subject to the procedures set out in paragraphs 17 to 19 of this Schedule.

Limits on power of Secretary of State to amend the Code

- 18 (1) The Secretary of State may not make provision under paragraph 16(1) unless the Secretary of State considers that the conditions in sub-paragraph (2) are satisfied in relation to that provision.
- (2) Those conditions are that—
 - (a) the provision does not reduce the powers or discretion of local authorities unless the Secretary of State objectively considers that the effect of the provision is proportionate to the policy objective intended to be secured by the provision;
 - (b) the provision does not remove any necessary protection for local government or breach the obligations arising under the European Charter of Local Self-Government; and
 - (c) an order under paragraph 16(1) may not make provision to abolish or vary any tax.

Procedure for orders under paragraph 1

- 19 (1) If, as a result of any consultation required by paragraph 16(2), it appears to the Secretary of State that it is appropriate to change all or any part of the Secretary of State’s proposals, the Secretary of State must undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (2) If, after the conclusion of the consultation required by paragraph 16(2), the Secretary of State considers it appropriate to proceed with the making of an order under paragraph 16(1), the Secretary of State must lay before Parliament—
 - (a) a draft of the order, and
 - (b) an explanatory document explaining the proposals and giving details of—
 - (i) the Secretary of State’s reasons for considering that the conditions in paragraph 17(2) are satisfied in relation to the proposals,

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (ii) any consultation undertaken under paragraph 16(2),
- (iii) any representations received as a result of the consultation, and
- (iv) any changes made as a result of those representations.

Super-affirmative resolution procedure

- 20 (1) A super-affirmative resolution procedure shall apply in relation to the making of an order pursuant to a draft order, as follows.
- (2) The Minister must have regard to—
- (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft order, made during the 60-day period with regard to the draft order.
- (3) If, after the expiry of the 60-day period, the Minister wishes to make an order in the terms of the draft, he must lay before Parliament a statement—
- (a) stating whether any representations were made under sub-paragraph (2)(a), and
 - (b) if any representations were so made, giving details of them.
- (4) The Minister may, after the laying of such a statement, make an order in the terms of the draft if it is approved by a resolution of each House of Parliament.
- (5) However, a committee of either House charged with reporting on the draft order may, at any time after the laying of a statement under sub-paragraph (3) and before the draft order is approved by that House under sub-paragraph (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.
- (6) Where a recommendation is made by a committee of either House under sub-paragraph (5) in relation to a draft order, no proceedings may be taken in relation to the draft order in that House under sub-paragraph (4) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (7) If, after the expiry of the 60-day period, the Minister wishes to make an order consisting of a revised version of the draft order, the Minister must lay before Parliament—
- (a) a revised draft order; and
 - (b) a statement giving details of—
 - (i) any representations made under sub-paragraph (2)(a); and
 - (ii) the revisions proposed.
- (8) The Minister may, after laying a revised draft order and statement under sub-paragraph (7), make an order in the terms of the revised draft if it is approved by a resolution of each House of Parliament.
- (9) However, a committee of either House charged with reporting on the revised draft order may, at any time after the revised draft order is laid under sub-paragraph (7) and before it is approved by that House under sub-paragraph (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.
- (10) Where a recommendation is made by a committee of either House under sub-paragraph (9) in relation to a revised draft order, no proceedings may be taken in relation to the revised draft order in that House under sub-paragraph (8) unless the recommendation is, in the same Session, rejected by resolution of that House.

Cities and Local Government Devolution Bill [Lords], continued

- (11) For the purposes of sub-paragraphs (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.
 - (12) In this schedule the “60-day period” means the period of 60 days beginning with the day on which the draft order was laid before Parliament under sub-paragraph(4).
 - (13) In calculating any period of days for the purposes of this section, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.
- 21 A resolution of either House is valid for the purposes of this schedule if, and only if, the motion for the resolution—
- (a) is agreed without a division; or
 - (b) is passed on a division in which the number of members who vote in favour of the motion is a number equal to or greater than two-thirds of the number of seats in the House (including vacant seats).

Interpretation of Legislation

- 22 (1) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Code.
- (2) This paragraph—
- (a) applies to primary legislation and subordinate legislation whenever enacted;
 - (b) does not affect the validity, continuing operation or enforcement of any incompatible primary legislation; and
 - (c) does not affect the validity, continuing operation or enforcement of any incompatible subordinate legislation if (disregarding any possibility of revocation) primary legislation prevents removal of the incompatibility.

Declaration of Incompatibility

- 23 (1) Sub-paragraph (2) applies in any proceedings in which a court determines whether a provision of primary legislation is compatible with the Code.
- (2) If the court is satisfied that the provision is incompatible with the Code, it may make a declaration of that incompatibility.
- (3) Sub-paragraph (4) applies in any proceedings in which a court determines whether a provision of subordinate legislation, made in the exercise of a power conferred by primary legislation, is compatible with a provision of the Code.
- (4) If the court is satisfied—
- (a) that the provision is incompatible with the Code, and
 - (b) that (disregarding any possibility of revocation) the primary legislation concerned prevents removal of the incompatibility, it may make a declaration of that incompatibility.
- (5) In this paragraph “court” means the Supreme Court; the Court of Appeal; and the High Court.
- (6) A declaration under this paragraph (“a declaration of incompatibility”)—
- (a) does not affect the validity, continuing operation or enforcement of the provision in respect of which it is given; and
 - (b) is not binding on the parties to the proceedings in which it is made.

Cities and Local Government Devolution Bill [*Lords*], *continued**Power to take remedial action*

- 24 (1) This paragraph applies if—
- (a) a provision of legislation has been declared under paragraph 22 to be incompatible with the Code and, if an appeal lies—
 - (i) all persons who may appeal have stated in writing that they do not intend to do so;
 - (ii) the time for bringing an appeal has expired and no appeal has been brought within that time; or
 - (iii) an appeal brought within that time has been determined or abandoned; or
 - (b) it appears to the Secretary of State that, having regard to any finding of his under section 5(1) of the Localism Act 2011, a provision of legislation is incompatible with the Code.
- (2) If a Minister of the Crown considers that there are compelling reasons for proceeding under this section, he may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.
- (3) If, in the case of subordinate legislation, a Minister of the Crown considers that—
- (a) it is necessary to amend the primary legislation under which the subordinate legislation in question was made, in order to enable the incompatibility to be removed, and
 - (b) there are compelling reasons for proceeding under this paragraph, he may by means of a remedial order make such amendments to the primary legislation as he considers necessary.
- (4) This paragraph also applies where the provision in question is in subordinate legislation and has been quashed, or declared invalid, by reason of incompatibility with the Code and the Minister proposes to proceed under paragraph 25(b).
- (5) If the legislation is an Order in Council, the power conferred by sub-paragraph (2) or (3) is exercisable by Her Majesty in Council.

Remedial Orders

- 25 (1) A remedial order may—
- (a) contain such incidental, supplemental, consequential or transitional provision as the person making it considers appropriate;
 - (b) be made so as to have effect from a date earlier than that on which it is made;
 - (c) make provision for the delegation of specific functions;
 - (d) make different provision for different cases.
- (2) The power conferred by sub-paragraph (1)(a) includes—
- (a) power to amend primary legislation (including primary legislation other than that which contains the incompatible provision); and
 - (b) power to amend or revoke subordinate legislation (including subordinate legislation other than that which contains the incompatible provision).
- (3) A remedial order may be made so as to have the same extent as the legislation which it affects.
- (4) No person is to be guilty of an offence solely as a result of the retrospective effect of a remedial order.

Cities and Local Government Devolution Bill [Lords], continued*Procedure*

- 26 No remedial order may be made unless—
- (a) a draft of the order has been approved by a resolution of each House of Parliament made after the end of the period of 60 days beginning with the day on which the draft was laid; or
 - (b) it is declared in the order that it appears to the person making it that, because of the urgency of the matter, it is necessary to make the order without a draft being so approved.

Orders laid in draft

- 27 (1) No draft may be laid under paragraph 25(a) unless—
- (a) the person proposing to make the order has laid before Parliament a document which contains a draft of the proposed order and the required information; and
 - (b) the period of 60 days, beginning with the day on which the document required by this sub-paragraph was laid, has ended.
- (2) If representations have been made during that period, the draft laid under paragraph 25(a) must be accompanied by a statement containing—
- (a) a summary of the representations; and
 - (b) if, as a result of the representations, the proposed order has been changed, details of the changes.

Urgent cases

- 28 (1) If a remedial order (“the original order”) is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made.
- (2) If representations have been made during the period of 60 days beginning with the day on which the original order was made, the person making it must (after the end of that period) lay before Parliament a statement containing—
- (a) a summary of the representations; and
 - (b) if, as a result of the representations, he considers it appropriate to make changes to the original order, details of the changes.
- (3) If sub-paragraph (2)(b) applies, the person making the statement must—
- (a) make a further remedial order replacing the original order; and
 - (b) lay the replacement order before Parliament.
- (4) If, at the end of the period of 120 days beginning with the day on which the original order was made, a resolution has not been passed by each House approving the original or replacement order, the order ceases to have effect (but without that affecting anything previously done under either order or the power to make a fresh remedial order).

Definitions

- 29 In this Schedule—
- “representations” means representations about a remedial order (or proposed remedial order) made to the person making (or proposing to make) it and includes any relevant Parliamentary report or resolution; and

Cities and Local Government Devolution Bill [*Lords*], *continued*

“required information” means—

- (a) an explanation of the incompatibility which the order (or proposed order) seeks to remove, including particulars of the relevant declaration, finding or order; and
- (b) a statement of the reasons for proceeding under paragraph (23) and for making an order in those terms.

Calculating periods

- 30 In calculating any period for the purposes of this Schedule, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued; or
 - (b) both Houses are adjourned for more than four days.

Statements of Compatibility

- 31 (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill—
- (a) make a statement to the effect that in his view the provisions of the Bill are compatible with the provisions of the Code (“a statement of compatibility”); or
 - (b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.
- (2) The statement must be in writing and be published in such manner as the Minister making it considers appropriate.

Amendment to the Parliament Act 1911

- 32 In section 2(1) of the Parliament Act 1911 the words “or a Bill seeking to amend the Local Government Independence Code Act” shall be inserted after the words “maximum duration of Parliament beyond five years”.

Amendments to other Enactments

- 33 In Section 1 of the Localism Act 2011, after subsection (6) there is inserted—
- “(6A) The general power of competence includes the power to raise revenue through any method including although not limited to local taxation, levies and duties.”
- 34 Schedule 6 of the Localism Act 2011 is repealed.

Duty to review provisions in primary and subordinate legislation

- 35 (1) The Secretary of State shall, within six months of the passing of this Act, make provision by Order to provide for the review of all provisions in pre-commencement primary and subordinate legislation to assess their compatibility with the provisions of the Code.
- (2) The order must include—
- (a) provision requiring the review of the compatibility of pre-commencement legislation to be completed within a five year period, commencing with the date of passing of this Act;
 - (b) provision for incompatible pre-commencement legislation to cease to have effect no later than the end of a seven year period, commencing with the date of passing of this Act.
- (3) The provision that may be made by virtue of subsection (2)(a) includes provision requiring the person to consider whether the objectives which it was

Cities and Local Government Devolution Bill [*Lords*], *continued*

the purpose of the legislation to achieve remain appropriate and, if so, whether they could be achieved in another way.

- 36 (1) In this schedule, “pre-commencement legislation” means a provision that—
- (a) is contained in any other Act passed no later than the end of the Session in which this Act is passed, or
 - (b) is contained in an instrument made under any other Act and comes into force before the commencement of section 1 of this Act.
- (2) Subordinate legislation under paragraph (35)1 may make transitional, consequential, incidental or supplementary provision or savings in connection with such provision.”

Member’s explanatory statement

This new Schedule provides details relating to implementation of the new Clause on the Local Government Independence Code.

Secretary Greg Clark

16

Clause 22, page 19, line 8, after “of” insert “, or made under,”

Member’s explanatory statement

This amendment provides that the power to make regulations under clause 22 of the Bill includes a power to make provision that is consequential on instruments made under the Bill.

Secretary Greg Clark

26

Schedule 4, page 34, line 22, at end insert—

“Local Government Act 1972

- A1 The Local Government Act 1972 is amended as follows.
- A2 In section 100E (application of Part 5A to committees and sub-committees), in subsection (3) after paragraph (b) insert—
- “(bba) a committee in place by virtue of section 107D(3)(c)(ii) of the Local Democracy, Economic Development and Construction Act 2009;
 - (bbb) a joint committee in place by virtue of section 107DA of that Act;”
- A3 In section 101 (arrangements for discharge of functions by local authorities)—
- (a) after subsection (1C) insert—
 - “(1D) A combined authority may not arrange for the discharge of any functions under subsection (1) if, or to the extent that, the function is a mayoral function of a mayor for the area of the authority.
 - (1E) “Mayoral function” has the meaning given by section 107F(7) of the Local Democracy, Economic Development and Construction Act 2009.”;

Cities and Local Government Devolution Bill [*Lords*], *continued*

(b) after subsection (5B) insert—

“(5C) Arrangements under subsection (5) by two or more local authorities with respect to the discharge of any of their functions cease to have effect with respect to that function if, or to the extent that, the function becomes a general function of a mayor for the area of a combined authority.

(5D) Subsection (5C) does not prevent arrangements under subsection (5) being entered into in respect of that function by virtue of section 107DA of the Local Democracy, Economic Development and Construction Act 2009 (joint exercise of general functions).

(5E) In subsection (5C), “general functions” has the meaning given in section 107D(2) of that Act.”

Member’s explanatory statement

This amendment provides for the cessation of existing joint committee arrangements where a combined authority function becomes a mayoral function in the combined authority, and for a committee established by section 107D(3)(c)(ii) or 107DA of the Local Democracy, Economic Development and Construction Act 2009 to be treated as a committee of a principal council for the purposes of Part 5A of the Local Government Act 1972.

Secretary Greg Clark

30

Schedule 4, page 34, line 35, leave out “In section 91 (exercise of local authority functions),” and insert “(1) Section 91 (exercise of local authority functions) is amended as follows.

(2) ”

Member’s explanatory statement

This makes a technical drafting amendment to the provision in paragraph 3 of Schedule 4 to the Bill which amends section 91 of the Local Democracy, Economic Development and Construction Act 2009.

Secretary Greg Clark

31

Schedule 4, page 34, line 36, at end insert—

“() In subsection (4)—

(a) omit “or” at the end of paragraph (a);

(b) after paragraph (b) insert—

“(c) for the function to be exercisable by the EPB and the local authority jointly, or

(d) for the function to be exercisable by the EPB jointly with the local authority but also continue to be exercisable by the local authority alone.”

Member’s explanatory statement

This amends paragraph 3 of Schedule 4 to the Bill to add new provision in subsection (4) of section 91 of the Local Democracy, Economic Development and Construction Act 2009. The amendments enable an order under Part 6 of the 2009 Act conferring local authority functions on a combined authority to require that both authorities exercise the functions concerned jointly.

Cities and Local Government Devolution Bill [*Lords*], continued

Secretary Greg Clark

27

Schedule 4, page 35, line 43, at end insert—

“() After subsection (1) insert—

“(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the reference to the Secretary of State were a reference to the Secretary of State or the Chancellor of the Duchy of Lancaster.”

Member’s explanatory statement

This amendment provides for an order made by the Chancellor of the Duchy of Lancaster under Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 to be able to make incidental, consequential, transitional or supplementary provision in support of such an order.

Secretary Greg Clark

28

Schedule 4, page 36, line 2, at end insert—

“10A In section 116 (consequential amendments), after subsection (1) insert—

“(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the references to the Secretary of State were references to the Secretary of State or the Chancellor of the Duchy of Lancaster.”

Member’s explanatory statement

This amendment provides that the Chancellor of the Duchy of Lancaster can, in consequence of an order made under Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, make provision in consequence of any provision made.

Secretary Greg Clark

17

Clause 25, page 20, line 3, leave out subsection (2)

Member’s explanatory statement

This amendment removes the privilege amendment inserted by the Lords.

ORDER OF THE HOUSE [14 OCTOBER 2015]

That the following provisions shall apply to the Cities and Local Government Devolution Bill [*Lords*]:

Committal

1. The Bill shall be committed to a Committee of the Whole House.

Proceedings in Committee

2. Proceedings in Committee of the Whole House shall be completed in two days.
3. The proceedings shall be taken on the days shown in the first column of the Table and in the order so shown.
4. The proceedings shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Cities and Local Government Devolution Bill [*Lords*], *continued*
TABLE

Proceedings *Time for conclusion of proceedings*

First day

Clauses 1 and 2; new Clauses and new Schedules relating to the subject matter of Clauses 1 and 2; Clause 3; Schedule 1; Clause 4; new Clauses and new Schedules relating to the subject matter of Clauses 3 and 4;

Two and a half hours after commencement of proceedings on the Bill

Clause 5; Schedule 2; Clauses 6 to 8; Clauses 17 to 19; Clause 9; Schedule 3; Clauses 10 to 16; new Clauses and new Schedules relating to the subject matter of Clauses 5 to 19;

The moment of interruption on the first day

Second day

Clauses 20 and 21; new Clauses and new Schedules relating to the subject matter of Clauses 20 and 21;

Two and a half hours after commencement of proceedings on the Bill.

Remaining new Clauses; remaining new Schedules; Clause 22; Schedule 4; Clauses 23 to 25; remaining proceedings on the Bill

The moment of interruption on the second day

Consideration and Third Reading

5. Any proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Programming committee

7. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.
-

Cities and Local Government Devolution Bill [*Lords*], *continued*

NOTICES WITHDRAWN

The following Notices were withdrawn on 19 October:

NC26
